

## MINUTE ORDER

CASE NUMBER: CIVIL NO. 16-00659 LEK-WRP

CASE NAME: Gerard K. Puana et al., vs. Katherine P. Kealoha et al.,

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JUDGE: Leslie E. Kobayashi

DATE: 1/24/2024

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COURT ACTION: EO: COURT'S INCLINATION TO DISMISS PLAINTIFFS' CLAIMS AGAINST DEFENDANT KATHERINE P. KEALOHA WITHOUT PREJUDICE AND TO CLOSE THE CASE

Plaintiffs Gerard K. Puana and Ricky L. Hartsell as Trustee of the Florence M. Puana Trust ("Plaintiffs") filed their Third Amended Complaint for Damages on May 13, 2022. [Dkt. no. 307.] Some of Plaintiffs' claims against pro se Defendant Katherine P. Kealoha ("Katherine") survived dismissal. See Order Granting in Part and Denying in Part Defendant Katherine P. Kealoha's Motion to Dismiss Third Amended Complaint for Damages by Joinder, filed 1/31/23 (dkt. no. 445), at 19. Although they subsequently stipulated to dismiss their claims against other defendants, Plaintiffs recognized that their claims against Katherine remained. See Stipulation for Partial Dismissal of Plaintiffs' Claims with Prejudice, filed 2/22/23 (dkt. no. 459), at 2 (dismissing, with prejudice, Plaintiffs' claims against Defendant Niall Silva but noting that the dismissal did not affect Plaintiffs' claims against, *inter alia*, Katherine). The subsequently filed stipulation to dismiss did not address Plaintiffs' claims against Katherine. See Stipulation for Partial Dismissal of Plaintiffs' Claims with Prejudice, filed 2/22/23 (dkt. no. 468) (dismissing Plaintiffs' claims against Defendants City and County of Honolulu and Minh-Hung "Bobby" Nguyen). Thus, Plaintiffs' claims against Katherine remain pending in this case.

The Court is inclined to dismiss Plaintiffs' claims against Katherine without prejudice for failure to prosecute and to close the case, unless Plaintiffs provide good cause not to do so. Cf. Fed. R. Civ. P. 41(b) ("If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it."). Plaintiffs are DIRECTED to file a statement by **February 8, 2024** advising the Court why the case should not be closed, if Plaintiffs wish to continue to pursue their claims against Katherine.

If Plaintiffs fail to file a statement, the claims against Katherine will be dismissed without prejudice and the case will be closed.

IT IS SO ORDERED.

Submitted by: Agalelei Elkington, Courtroom Manager